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10/581,616	10/19/2006	Nathalie Bergeret	0549-1018	5414
<div>466 7590 12/19/2008</div> <div>YOUNG & THOMPSON</div> <div>209 Madison Street</div> <div>Suite 500</div> <div>ALEXANDRIA, VA 22314</div>				
EXAMINER				
BODAWALA, DIMPLE N				
ART UNIT		PAPER NUMBER		
1791				
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12/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,616

Applicant(s)

BERGERET, NATHALIE

Examiner

DIMPLE N. BODAWALA

Art Unit

1791

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIS-100)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 10/31/2008

DETAILED ACTION

Response to Amendment

In view of the amendment filed on 9/12/2008 following rejection and objection are withdrawn as a reason of record from the previous office action mailed on 2/5/2008.

- ♦ Objection of drawings.
- ♦ Rejection of claims 20-37 under 35 USC 112, second paragraph.
- ♦ Rejection of claims 20-37 under 35 USC 103(a) as being unpatentable over Brassat (US 2004/0231527) in view of Cheeley (US 2,960,218).
- ♦ Rejection of claims 20-32 and 37 under 35 USC 103(a) as being unpatentable over Ahlgren (US 4,184,421) in view of Liorente (US 2001/0043977).

New Grounds of Rejections

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. **Claims 38-47, 50-52, 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson (US 497,606) in view of Liorrente Hompanera (U S Publication Application No. 2001/0043977).**

3. As to claims 38-40,47, Richardson discloses bake pan as a hollow piece mould which could be any of the usual forms and of any required size (See line 30), wherein pan comprises side wall, wherein lower portion of the side wall comprises a groove (a) having a lower bead and upper bead, wherein groove (a) is intended to receive a plate shaped base (C) (See figure 1), wherein the base (C) is made of metal (See line 70), thus the base is capable to be a rigid stiffener as cited in claim. It further teaches that the lower base of the side wall is formed integrally with the lower bead (See figures 1 and 3). Figure 1 further shows that the lower and upper beads are continuous beads.

4. As to claim 41, it further teaches that the pan having open bottom (B) and lower bead, wherein the lower bead is a lower ring shaped wall (a) limited toward the center of the bottom wall by a hole that is covered by the plate shaped base stiffener (See figure 3).

5. As to claims 42-43, it further shows that the lower ring shaped wall (a) occupies certain area of the total surface area of the bottom wall of the mould (See figures 1-3), but fails to teach or suggest range. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention

to modify the invention of Greene by providing desired range of area occupies by lower ring-shaped wall because such configuration allows operator to slide and/or clip the plate shaped base stiffener easily on the lower ring-shaped wall, and, thus, lower ring-shaped wall retains the plate shaped base stiffener during the various applications. As we know that the claiming of new use, new function or unknown property which is inherently present in the prior art does not necessarily make the claim patentable, *In re Best*, 562 F.2d 1252, 1254, 195 USPQ 430, 433 (CCPA 1977). Claimed range and the prior art range of composition are closed enough to demonstrate similar properties and be expected to have a standard results, *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).

6. As to claims 44-46, figure 3 shows that the length of the extension of the lower bead from the lower base of the side wall and the length of the upper bead, but fails to provide ratio between these two lengths. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Greene by providing desired ratio of the length of the extension of the lower bead from the lower base of the side wall to the length of the upper bead because such dimension shows that the lower bead defines lower ring shaped wall which allows operator to slide and/or clip the plate shaped base stiffener easily on the lower ring-shaped wall, and,

thus, lower ring-shaped wall retains the plate shaped base stiffener during the various applications. As we know that the claiming of new use, new function or unknown property which is inherently present in the prior art does not necessarily make the claim patentable, *In re Best*, 562 F.2d 1252, 1254, 195 USPQ 430, 433 (CCPA 1977). Claimed range and the prior art range of composition are closed enough to demonstrate similar properties and be expected to have a standard results, *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).

7. As to claims 50-52, wherein the lower ring shaped wall (a) has a lower surface which is substantially flat and an upper surface presenting shouldering making it thicker in a peripheral part that is close to the lower base of the side wall than in a central part that is close to the hole (See figure 3), plate shaped base stiffener (C) having an annular step (c) (See figure 3), wherein the lower surface of the lower ring shaped wall (a) comprises a flange at the external perimeter thereof (See figure 3). Richardson discloses pane having stiffener (C) with a flange or step portion (c), wherein such portion is follow the lower surface of ring shaped wall rather than upper surface of ring shaped wall for displaying variation in thickness of lower ring shaped wall. However stiffener (C) is capable to removable, thus, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention

to modify the invention of Richardson by modifying the position of the step portion of the stiffener (C) which is followed the upper surface of ring shaped wall for slightly raising the bottom of the pan from the bottom of the oven, and thus prevent any liability to bake too hard the bottom of the cake or bread. It has been recognized that to shift location of parts when the operation of the device is not otherwise changed is within the level of ordinary skill in the art, *In re Japikse*, 86 USPQ 70; *In re Gazda*, 104 USPQ 400.

8. As to claim 54, it further teaches that the plate shaped base stiffener is removable from the groove (a) (See figure 3; line 35-36).

9. As to claim 55, it further teaches that the groove (a) is adapted to receive the edge of the removable plate shaped base stiffener (C) (See figures 1 and 3; lines 40-43), thus inherently suggests that the stiffener (C) is clipped into the groove.

10. Richardson discloses all claimed structural limitation as discussed above. It further teaches that the pan is made of any of the usual forms, but fails to teach that pan is made from an elastomer material such as Silicone.

11. In the analogous art, Liorente Hompanera (977) discloses use of silicone for manufacturing a confectionery moulds and baking receptacle, wherein the cooking pan is made of flexible elastomeric material such as

silicone, wherein silicone material is a heat curable elastomer (See paragraph # 11, 13 and 14), which is intended for application in contact with food stuff.

It further involved for the operation of easily removal of the baked product from the mold (See abstract), and the operation of easily washed of mold or receptacle. Furthermore, silicone having a high flexibility which is involved to make a mold or receptacle with desire shape and size to suit user requirement (See paragraph # 13).

12. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Richardson by providing a flexible elastomeric material such as silicone material for pan rather than a rigid material because such flexible elastomeric material is involved for the operation of easily removal of the baked product from the mold (See abstract), and the operation of easily washed of mold or receptacle, further involved to make a mold or receptacle with desire shape and size to suit user requirement (See paragraph # 13), and silicone material is a heat curable elastomer (See paragraph # 11, 13 and 14), which is intended for application in contact with food stuff as suggested by Liorente Hompanera ('977).

13. Claims 38, 39 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurino et al. (US 4,045,153) in view of Sollich (GB 697,071).

14. As to claim 38, Maurino et al. discloses molding apparatus for molding article, wherein molding apparatus comprises flexible mould comprising a flexible one-piece sheet-like tray to be handled and made of a food grade silicone material (See col.2 line 60 through col.3 lines 1-3), wherein mold is a flexible hollow piece (See figure 3), wherein mold comprising upright sidewalls (2) with a bottom wall (8) which is connected to a lower portion of the mold (See col.3 lines 33-40; figure 3). Figure 3 further shows that a stiffening annular member (11) extending along the bottom wall and embedded within the silicone material (See col.2 line 51 through col.3 line 46). It further discloses stiffening annular member (11') in the groove (20') formed around the bottom wall (See figures 6 and 7; col.5 lines 5-35). Figure 3 shows that the lower base of the side wall is formed integrally with the bottom wall; and also formed integrally with the groove (20') formed on side of the bottom, thus able to integral with the lower bead.

15. Thus, Maurino shows every feature as discussed above. It further teaches that the stiffening member disposed on the side surface of the bottom and also in the bottom surface (See figures 3, 6, 7), but fails to teach or

suggest bottom surface defining groove having lower bead and upper bead as cited in the claim.

16. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Maurino by modifying the bottom wall upper and lower beads, wherein such beads involved to define a peripheral groove for receiving the stiffening member and also for easy removal the stiffening member from the groove as an obvious engineering variation in view of the two embodiments of Maurino. As we know that the claiming of new use, new function or unknown property which is inherently present in the prior art does not necessarily make the claim patentable, *In re Best*, 562 F.2d 1252, 1254, 195 USPQ 430, 433 (CCPA 1977).

17. Maurino discloses all claimed structural limitations as discussed above. It further discloses flexible mold having stiffening member is a ring instead of a plate shaped base stiffener.

18. Sollich discloses a flexible mold comprising tray (1), wherein the tray comprising a bottom wall (4) located at a lower edge of the tray, side wall (3) extending upwardly from the bottom wall, wherein the side wall having an upper edge (2) and including a peripheral wing projecting outwardly from the upper edge, a stiffening member (4a) formed of a plate member secured to the

tray near the lower edge of the tray (See figure 1, page 2 lines 67-117). It further teaches that the stiffener is blocked by molding with respect to the groove (See figure 7). The patentability of a product or apparatus, however, does not depend on its method of production. *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985); *In re Brown*, 459 F.2d 531, 535, 173 USPQ 685, 688 (CCPA 1972); *In re Pilkington*, 411 F.2d 1345, 1348, 162 USPQ 145, (CCPA 1969); (*MPEP* § 2113). In this case, prior art discloses a product with all of the structural features defined in the claimed article and structure even with the defined steps in production.

19. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Maurino by using a plate shaped base stiffener instead of a ring adjacent to the bottom of the mould tray for improving rigidity of bottom of the mould, and, thus able to manufacture a stronger mould tray as suggested by Sollich.

20. **Claims 38-50 and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greene (US 5,582,389) in view of Sollich (GB 697,071).**

21. As to claim 38, Greene ('389) discloses hollow piece mold (10) which is manufactured from polymeric material (See col.3 lines 5-22), wherein mold (10) having upright side wall (114, 214) with a lower base (212) which is a connected to lower portion of the mold (10) (See figures 5-7), wherein lower

portion of the mold comprising lower bead holding plate shaped base (212) and an upper bead extending above the lower bead (See figure 7) and defining a groove (219) in which the plate shaped base (212) is received (See figure 7). It further teaches that the base is made of aluminum using techniques well known to those skilled in the art such as drawing molding, etc. (See col.3 lines 4-9), thus plate shaped base member of Greene capable to have similar properties of plate shaped base stiffener of instant invention.

22. As to claim 39-41, figure 7 shows that the side wall (214) is formed integrally with the lower bead, wherein lower bead is a continuous bead. Figure 7 further shows that the lower bead is a lower ring-shaped wall limited towards the center of the bottom wall by a hole that is covered by the plate (212).

23. As to claims 42-43, it further shows that the lower ring shaped wall occupies certain area of the total surface area of the bottom wall of the mould (See figures 6, 7), but fails to teach or suggest range. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Greene by providing desired range of area occupies by lower ring-shaped wall because such configuration allows operator to slide and/or clip the plate shaped base stiffener easily on the lower ring-shaped wall, and, thus, lower ring-shaped wall retains the plate shaped base

stiffener during the various applications. As we know that the claiming of new use, new function or unknown property which is inherently present in the prior art does not necessarily make the claim patentable, *In re Best*, 562 F.2d 1252, 1254, 195 USPQ 430, 433 (CCPA 1977). Claimed range and the prior art range of composition are closed enough to demonstrate similar properties and be expected to have a standard results, *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).

24. As to claims 44-46, figure 7 shows that the length of the extension of the lower bead from the lower base of the side wall and the length of the upper bead, but fails to provide ratio between these two lengths. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Greene by providing desired ratio of the length of the extension of the lower bead from the lower base of the side wall to the length of the upper bead because such dimension shows that the lower bead defines lower ring shaped wall which allows operator to slide and/or clip the plate shaped base stiffener easily on the lower ring-shaped wall, and, thus, lower ring-shaped wall retains the plate shaped base stiffener during the various applications. As we know that the claiming of new use, new function or unknown property which is inherently present in the prior art does not necessarily make the claim patentable, *In re Best*, 562 F.2d 1252,

1254, 195 USPQ 430, 433 (CCPA 1977). Claimed range and the prior art range of composition are closed enough to demonstrate similar properties and be expected to have a standard results, *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).

25. As to claims 47-49, it further suggests that the upper bead is a continuous bead (See figure 5), wherein the upper bead comprises segment defining with the lower ring shaped wall a discontinuous groove (See figure 5), but fails to teach or suggest the plurality of segments defining with the lower ring shaped wall a discontinuous groove. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Greene by providing plurality segments of upper bead defining with the lower ring shaped wall a discontinuous groove because such feature is involved to define peripheral groove for snap fitting the plate shaped base member so that the uncooked batter does not leak out of the pan. As we know that the claiming of new use, new function or unknown property which is inherently present in the prior art does not necessarily make the claim patentable, *In re Best*, 562 F.2d 1252, 1254, 195 USPQ 430, 433 (CCPA 1977).

26. As to claim 50, wherein the lower ring shaped wall displays variation in thickness (See figures 5 and 7).

27. As to claim 53, it further teaches that the base is made of aluminum using techniques well known to those skilled in the art such as drawing, molding, etc. (See col.3 lines 4-9). The patentability of a product or apparatus, however, does not depend on its method of production. *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985); *In re Brown*, 459 F.2d 531, 535, 173 USPQ 685, 688 (CCPA 1972); *In re Pilkington*, 411 F.2d 1345, 1348, 162 USPQ 145, (CCPA 1969); (*MPEP* § 2113). In this case, prior art discloses a product with all of the structural features defined in the claimed article and structure even with the defined steps in production.

28. As to claims 54-55, it further teaches that the groove (219) is dimensioned and configured to receive base member in a snap-fit (See col.3 lines 56-63), wherein the plate shaped base member (212) is removable from the groove (See col.4 lines 2-9).

29. Greene discloses all claimed structural limitations as discussed above. It further teaches that the mold is made from polymeric material but fails to teach or suggest elastomeric material.

30. Sollich discloses flexible mold which is made of rubber, wherein mold comprises bottom portion for receiving metal reinforcement member to give the desired rigidity (See page 1).

31. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Greene by modifying the mold with a flexible elastomeric material of Sollich because such material is a heat curable elastomer which is intended for application in contact with food stuff and other properties of material is intended for the operation of easily removal of the baked product from the mold, and the operation of easily washed of mold; and also such material is non-deformable material so the casting mold body or mold profile with rim and bottom portion both of which retain their shape during different applications.

Response to Arguments

32. Applicant's arguments, see Remarks, filed on 9/12/2008, with respect to the rejection(s) of claim(s) under 103(a) have been fully considered and are persuasive. Applicant argues that the prior arts, neither Brassett nor Cheeley teaches flexible mold having a rigid pan-shaped base stiffeners; and also an upper bead extending above the lower bead, defining with the lower bead a groove in which the plate shaped base stiffener is received as cited in claim 38 of the instant application. Applicant further argues that neither Ahlgren (US 4,184,421) nor Liorente (US 2001/0043977) teaches flexible mold having an upper bead extending above the lower bead, defining with the lower bead a groove in which the plate shaped base stiffener is received as cited in claim

38 of the instant application. Applicant's all arguments are fully considered and found persuasive. Therefore, the rejections of previous claims have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made for new set of claims, which discussed as above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DIMPLE N. BODAWALA** whose

telephone number is (571)272-6455. The examiner can normally be reached on Monday - Friday at 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PHILLIP C. TUCKER can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner
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Supervisory Patent Examiner, Art Unit 1791